

IN THE UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF NORTH CAROLINA

FILED

DEC 27 2023

PETER A. MOORE, JR., CLERK  
US DISTRICT COURT, EDNC  
BY Amr DEP CLK

PATRICK J. FEDAK,  
Petitioner,

V.

UNITED STATES OF AMERICA,  
Respondent.

:  
: Case No. 4:20-CR-115-1-FL  
: Motion for reduction of  
: sentence pursuant to USSG  
: retroactive Amendment 821,  
: 18 U.S.C. § 3582(c)(2)  
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COMES NOW Patrick J. Fedak (Fedak), acting on his own behalf respectfully asking this Court for a reduction in sentence pursuant to the brand new Amendment 821. Fedak is proceeding pro-se and asks that this Court construe his filing liberally. Haines v. Kerner, 404 U.S. 519, 520 92 S.Ct.

Relevant History

Pursuant to a written plea agreement, Fedak pled guilty to OFF/CHG 18 U.S.C. § 641 -- Theft of Government Property. On January 20, 2023, Fedak was sentenced to 36 months and 3 years supervised release. Fedak has a home detention eligibility date of February 19, 2025.

Argument

Sweeping changes to the U.S. Sentencing Guidelines took place on November 1, 2023, after Congress took no action to veto the U.S. Sentencing Commission's provisions proposed in the new guidelines amendments. Part B of the amendment provides for a decrease of two (2) base offense levels for defendants without any criminal history points, so long as there are not certain aggravating factors in play. Aggravating factors include among

other things, use or threats of violence.

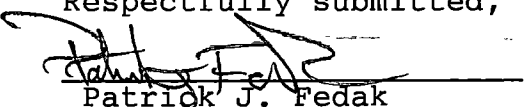
Fedak avers that during his initial sentencing hearing, he was sentenced by the adoption of the findings in the Presentence Report (PSR). The analysis revealed that he had zero criminal history points. Also, Fedak met all the criteria set forth by the sentencing commission. The Commission has made Amendment 821 retroactive, which means it applies to people convicted and sentenced in the past, people like Fedak. The law, USSG §1B1.10, limits how far a court may reduce a sentence. It cannot impose a new sentence below the low-end of the new guidelines range. Fedak humbly requests that this Court reduce his sentence to the low-end of his new guidelines range.

Conclusion

Fedak's motion is properly before the Court and he has carried his burden to show he qualifies for a reduction by application of the new Amendment 821.

Based upon the aforementioned reasoning, Fedak prayerfully requests that this Court grant his "Amendment 821" motion.

Respectfully submitted,

  
Patrick J. Fedak

Certificate of Service

I hereby certify that this motion for reduction of sentence pursuant to USSG retroactive Amendment 821, was signed and served by deposit into a U.S. Postal Service mailbox on December 20, 2023.

  
Patrick J. Fedak

21248-509

Federal Prison Camp

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